

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

United States of America,  
Plaintiff  
v.  
Deandre Nakita Brown,  
Defendant

Case No.: 2:17-cr-00160-JAD-VCF

## **Order Adopting Report and Recommendation and Denying Motion to Dismiss**

[ECF Nos. 187, 204]

9 Deandre Brown has been charged with three crimes: (1) interference with commerce by  
10 robbery under 18 U.S.C. § 1951; (2) use of a firearm during and in relation to a crime of violence  
11 under 18 U.S.C. § 924(c)(1)(A)(ii); and (3) conspiracy to interfere with commerce by robbery in  
12 violation of 18 U.S.C. § 1951.<sup>1</sup> A crime of violence is a felony that “(A) has as an element the  
13 use, attempted use, or threatened use of physical force against the person or property of another, or  
14 (B) that by its nature, involves a substantial risk that physical force against the person or property  
15 of another may be used in the course of committing the offense.”<sup>2</sup> Brown moves to dismiss his  
16 indictment, arguing that clause B in the crime-of-violence definition is unconstitutionally vague  
17 and that Hobbs Act robbery does not qualify under the force clause either.<sup>3</sup>

Magistrate Judge Ferenbach reviewed Brown's dismissal motion, and he recommends that I deny it because the Hobbs Act robbery that Brown is charged with qualifies as a crime of violence under the force clause, and the Ninth Circuit has expressly rejected the arguments that Brown offers to challenge that clause.<sup>4</sup> Judge Ferenbach issued his recommendation on July 3, 2018, making July 17, 2018, the deadline to file objections. That deadline has now expired, and

<sup>1</sup> ECF No. 109.

<sup>2</sup> 18 U.S.C. § 924(c)(3).

<sup>3</sup> ECF No. 187 at 3–4.

<sup>4</sup> ECF No. 204 at 3.

1 Brown has not objected. “[N]o review is required of a magistrate judge’s report and  
2 recommendation unless objections are filed.”<sup>5</sup>

3 Accordingly, with good cause appearing and no reason to delay, IT IS HEREBY  
4 ORDERED that Magistrate Judge Ferenbach’s report and recommendation [ECF No. 204] is  
5 **ACCEPTED and ADOPTED**, and Brown’s motion to dismiss his indictment [ECF No. 187] is  
6 **DENIED**.

7 Dated: July 19, 2018

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9 U.S. District Judge Jennifer A. Dorsey

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<sup>5</sup> *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); see also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).